

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Heath Pomeroy,
Petitioner-Appellant,

v.

Warren County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-91-0357
Parcel No. 42-093-01-0180

On May 14, 2012, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Heath Pomeroy was self-represented and requested a hearing; however, he did not appear. County Attorney John Criswell is legal counsel for the Warren County Board of Review. County Assessor Brian Arnold represented the Board at hearing. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Heath Pomeroy is the owner of a residential, single-family property located at 3130 N Cattail Creek, Cumming, Iowa. The property is a one-story home, built in 2003, and has 1955 square feet of total living area with a 576 square-foot attached garage. The property has a full, walk-out basement with 1300 square feet of living-quality finish. The property also has a deck, patio, and open porch. The site is 1.090 acres.

Pomeroy protested to the Warren County Board of Review regarding the 2011 assessment of \$376,500, which was allocated as follows: \$70,300 in land value and \$306,200 in improvement value.

His claim was that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a). The Board of Review denied the protest.

Pomeroy then appealed to this Board reasserting his claim and contending the correct value was \$353,400, allocated as \$47,000 in land value and \$306,400 in improvement value.

Pomeroy included a four-page letter with his petition to the Board of Review. The letter outlines five properties, not located in the subject's subdivision, that have lower assessed land values than his property. He included print-outs from the Beacon website¹ for each of these properties.

Warren County Assessor Brian Arnold testified at hearing for the Board of Review. Arnold explained the lot values of the five properties submitted by Pomeroy, which were outside of his subdivision, reflected only partial assessments. Arnold explained that he believed Pomeroy had relied on the Beacon website which only provided partial assessment information for these particular properties because they had been annexed. Due to the annexation these properties were documented with two parcel numbers. To understand the total value both cards for the properties would need to be considered.

Pomeroy also provided seven improved properties in his subdivision that had lower dwelling values than his property. While Pomeroy did not provide any information regarding these improved properties, a Board of Review spreadsheet included in the record indicates they are all one-story homes, built between 2001 and 2005, and have similar grades to the subject property. However, only one of these properties had a sales price. A market value for each property is necessary to support an equity claim. While the information about these properties is limited, the assessed value per square foot ranges from \$166.11 to \$203.05. The subject's assessment per square foot of \$192.58 is within this range.

The Board of Review also provided a spreadsheet of properties it considered comparable to the subject. While not all located in the subject's immediate subdivision, the sales are all of one-story

¹ Beacon is an on-line system used by some assessing jurisdictions; however, is not typically the full property record card.

improvements built between 2001 and 2010. Sales prices range from \$275,000 to \$520,000. The assessed values per square foot range from \$137.43 to \$214.82. Again, the subject's assessed value per square foot of \$192.58 is within this range. The sales ratio indicated by these properties ranges from 0.97% to 1.09% with a median ratio of 0.98%.

Lastly, the Board of Review provided Exhibit E which is a list of sales in Cumming and Norwalk. This list of sales indicates a sales ratio range from 84.98% to 106.55%, with a median of 98.16%. We give this no weight because it has little bearing on the subject's actual assessment.

Based on the foregoing, we find insufficient evidence has been provided to demonstrate the subject property is inequitably assessed.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If

sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2).

The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

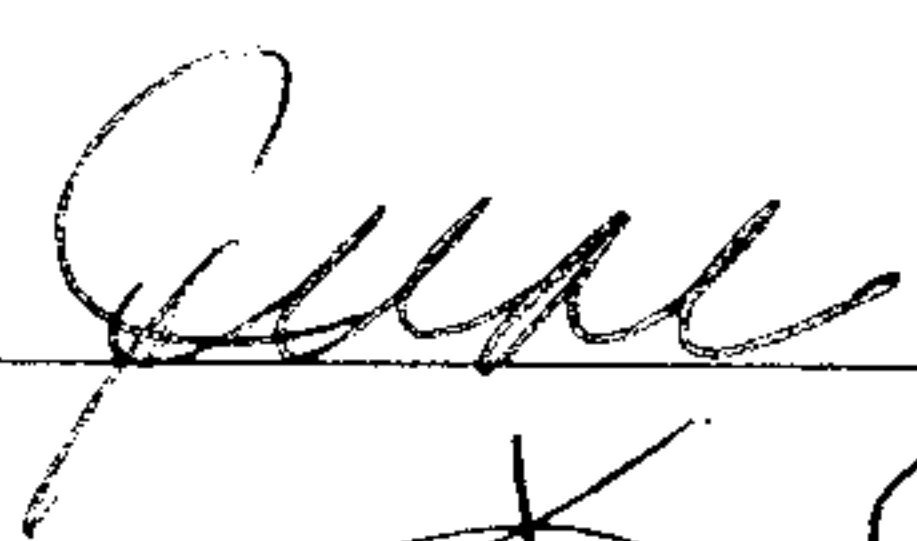
To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

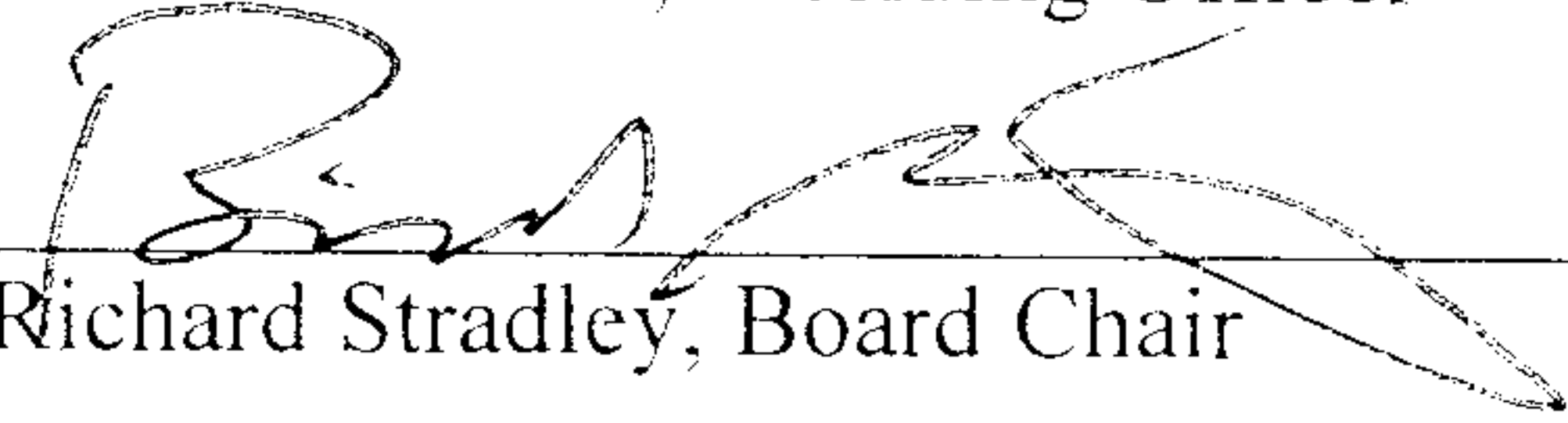
"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Pomeroy did not show inequity under the tests of *Maxwell* or *Eagle Foods*. We therefore affirm the assessment of Heath Pomeroy's property as determined by the Warren County Board of Review, as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of Heath Pomeroy's property located at 3130 N Cattail Creek, Cumming, Iowa, of \$376,500, as of January 1, 2011, set by the Warren County Board of Review, is affirmed.

Dated this 21 day of June, 2012.


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

Heath Pomeroy
3130 N Cattail Creek
Cumming, Iowa 50061
APPELLANT

Brian Arnold
County Assessor
301 N Buxton, Suite 108
Indianola, Iowa 50125
REPRESENTATIVE FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-31</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>Heath Pomeroy</u>